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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,312	12/09/2005	Izumi Usuki	P28954	4988
52123 7590 08/06/2009 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191				
EXAMINER INGVOLDSTAD, BENNETT				
ART UNIT 2427		PAPER NUMBER		
NOTIFICATION DATE 08/06/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/560,312

Applicant(s)

USUKI ET AL.

Examiner

Bennett Ingvaldstad

Art Unit

2427

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4 May 2009 has been entered.

Response to Arguments

Applicant's arguments filed 4 May 2009 have been fully considered. However, they are moot in view of the new combination.

Claim Objections

Claims 12, 17, 18, and 19 are objected to for containing the unclear limitation "wherein each of said first burst and said second burst carries all information of the first service and the second service as carried in said third stream." This limitation is unclear because "all information of the first service and the second service as carried in said third stream" is not previously defined or referenced in the claim. Rather, the claim previously recites that said third stream contains "data related to the first service and data related to the second service" (emphasis added). Although the claimed "all

information" of the services is arguably inherent and consists of the related data, for clarity the examiner suggests rewording the limitation as --wherein each of said first burst and said second burst carries both said data related to the first service and said data related to the second service in said third stream-- or similar. For examination purposes, the limitation is read as described above using the examiner's understanding of Applicant's intention.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 12–19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. Specifically, the independent claims are amended to require that a first burst containing a first stream and a second burst containing a second stream are transmitted prior to a pause in transmission. Further, a third stream containing data related to both the first and second streams is multiplexed in each of first and second bursts. Looking to the specification, the examiner sees that the embodiment of Figures 12 and 13 (ie, the description's third embodiment) teaches a pause in data transmission, whereas the other embodiments (the first and second

embodiments) teach a continuous transmission without pauses, as illustrated at Figures 1-11. However, the limitation requiring that the third stream data is contained in each burst is met only by the first and second embodiments (see Figures 3 and 7). The third embodiment further contradicts this requirement since it transmits the third stream data in separate bursts rather than in each burst (see Figures 12 and 13). Therefore, the description teaches the above two limitations in separate embodiments, and does not support combining the limitations into a single embodiment, so the claims and their dependents contain new matter.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over WIPO Pub. WO 03/073753 (hereinafter “Yamaguchi”) in view of US PG-Pub. No. 2005/0090235 (hereinafter “Vermola”). Applicant is advised that the Vermola reference is an “intervening” reference by virtue having an effective filing date (5 Nov. 2003) prior to the filing date of Applicant’s parent PCT application (26 Oct. 2004), but later than Applicant’s earliest priority date (30 Oct. 2003). Applicant cannot rely upon the

foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

12. Yamaguchi teaches a transmission method comprising “generating a transmission stream through multiplexing of a first stream having data of a first service” (stream A1-A3 in Figs 6C-D), a second stream having data of a second service (stream B1-B3 in Figs 6C-D), and a third stream having data related to the first service and data related to the second service (zapping data streams LMN or XYZ in Figs 6C-D containing information related to content streams A, B, C; see pg. 30, l. 13 – pg. 31, l. 7). The transmitted stream “has such a structure that a first burst for transmitting the first stream and a second burst for transmitting the second stream are located periodically in said transmission stream” in light of Applicant’s amended Figure 15, in which a “burst” appears to be a sequence of packets related to the same content. Therefore sequences A1-A3, B1-B3, and C1-C3 of Figs 6C-D are considered to be bursts.

However, Yamaguchi does not further teach the third stream being carried in said first burst and also in said second burst, each burst carrying all information related to the first and second services; rather, the third stream is in between the bursts as in Figs 6C-D. Yamaguchi further does not teach a pause in transmission between the bursts.

Vermola teaches sending a first burst 130 comprising first service data S1m and a second burst 131 comprising second service data S2m, each burst including the service content in batches prior to a pause interval in transmission (see Figure 13), and each burst further comprising electronic service guide data comprising information related to the services (para 0060). Although Figure 13 illustrates each burst comprising

ESG information for only one service (ie, ESG1 for burst 130, ESG2 for burst 131), Vermola further contemplates that each burst may comprise any number of service components (para 0072), and that either part or all of the ESG may be sent at the predefined interval (para 0049). Therefore Vermola contemplates sending ESG information related to multiple services in each burst.

Yamaguchi and Vermola thus both teach multiplexing first and second streams containing first and second service data with a third stream containing information related to the first and second services. However, Vermola uses a different multiplexing scheme that has the advantage of low power consumption (see para 0044). Therefore, it would have been obvious to modify Yamaguchi with Vermola's multiplexing scheme, performing the simple substitution of the one multiplexing scheme for the other to achieve predictable results, and further for the purpose of reducing power consumption.

13. Yamaguchi further teaches the first and second data being high quality content data (program content data, pg. 30, l. 1–4) and the third zapping data related to the first and second data being lower quality data (pg. 6, l. 4–8).

14. Yamaguchi further teaches the high quality content data being program data comprising audio and video (television broadcast programs, pg. 1).

15 and 16. Yamaguchi further teaches the zapping data comprising images, audio, and/or text (pg. 6, l. 4–8).

Independent claim 17 is met as discussed above, the transmitter further comprising a multiplexer operable to generate the previously discussed transmission stream (Yamaguchi, pg. 7, l. 19 – pg. 20, l. 9).

Independent claim 18 is met as discussed above, the system further comprising a receiver operable to receive the multiplexed stream “partially and selectively” such that only a single program channel is displayed (pg. 5, l. 15–26), extract the third zapping stream and store it (pg. 5, l. 23–34), and present the third zapping stream “when the service recipient alters the receiving service from the first service presented by the first burst to the second service presented by the second burst, or vice versa”, i.e. after the displayed program is changed (pg. 5, l. 24–26).

19. The receiving apparatus is met as discussed for claim 18.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bennett Ingvaldstad whose telephone number is (571) 270-3431. The examiner can normally be reached on M–F 9–5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bennett Ingvaldstad/
Examiner, Art Unit 2427

/Scott Beliveau/
Supervisory Patent Examiner, Art Unit 2427